

Chapter 1

GENERAL PROVISIONS

The Land Use Code is designed to promote the health, safety and welfare of the inhabitants of Wellington, Utah.

Updated August 27, 2008

Land Use Code, Title 12

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Section 1-1 SHORT TITLE.

This Ordinance shall be known as the "Land Use Code of the City of Wellington, Utah", and may be so cited and pleaded.

Section 1-2 PURPOSE.

This Ordinance is designed and enacted for the purpose of promoting the health, safety, convenience, order, prosperity and welfare of the present and future inhabitants of the City of Wellington, Utah, including among other things, the controlling of congestion in the streets or roads, securing safety from fire and other dangers, providing adequate light and air, classification of land uses and distribution of land development and utilization, protection of the tax base, securing economy in governmental expenditures, fostering the rural atmosphere and other industries, and the protection of urban development.

Section 1-3 INTERPRETATION.

In interpreting and applying the provisions of this Ordinance, the requirements contained herein are declared to be the minimum requirements for the purposes set forth.

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Section 1-4 CONFLICT.

This Ordinance shall not nullify the more restrictive provisions of covenants, agreements, or other ordinances or laws, but shall prevail notwithstanding such provisions which are less restrictive.

Section 1-5 EFFECT ON PREVIOUS ORDINANCES AND MAPS.

The existing ordinance covering zoning, in their entirety and including the maps heretofore adopted and made a part of said ordinances are hereby superseded and amended to read as set forth herein; provided, however, that this Ordinance, including the attached map, shall be deemed a continuation of previous ordinances and not a new enactment, insofar as the substance of revisions of previous ordinances is included in this Ordinance, whether in the same or in different language; and this Ordinance shall be so interpreted upon all questions of construction relating to tenure of officers and boards established by previous ordinances and to questions of conforming or nonconforming uses and buildings and structures, and to questions as to the dates upon which such uses, buildings, or structures became conforming or nonconforming.

Section 1-6 SCHEDULE OF FEES, CHARGES, AND EXPENSES.

1. The City Council shall establish a schedule of fees, charges, and expenses and collection procedure for building permits, conditional use permits, certificates of zoning compliance, appeals, and other matters pertaining to this ordinance. The schedule of fees shall be posted in the office of the Building Inspector, and may be altered or amended only by the City Council.
2. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

Section 1-7 PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS.

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards, shall govern.

Section 1-8 ENFORCEMENT.

The Wellington City Zoning Administrator is authorized as the enforcing officer for this Ordinance, and shall enforce all provisions, entering actions in court if necessary, and his failure to do so shall not

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legalize any violations of such provisions. The Wellington City Council may, by resolution or ordinance, from time to time entrust administration of this Ordinance, in whole or in part, to another officer of the City of Wellington, without amendment to this Ordinance.

Section 1-9 NUISANCE AND ABATEMENT.

Any building or structure erected, constructed, altered, enlarged, converted, moved or maintained contrary to provisions of this ordinance shall be, and the same hereby is, declared to be unlawful and a public nuisance; and the local attorney shall, upon request of the governing body, at once commence action or proceedings for abatement and removal or enjoinder thereof in a manner provided by law, and take other steps and apply to such courts as may have jurisdiction to grant such relief as will abate and remove such building or structure, and restrain or enjoin any person, firm, or corporation from erecting, building, maintaining, or using said building or structure or property contrary to the provisions of this Ordinance. The remedies provided for herein shall be cumulative and not exclusive.

Section 1-10 SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such holding shall not effect the validity of the remaining portion of this Ordinance.

Section 1-11 VIOLATION OF ORDINANCE.

In any case where any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or where any building, structure or land is used in violation of this Ordinance or other regulation, the proper local authorities of the City, in addition to other remedies, any institute, any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land, or to prevent any illegal act, conduct of business or use in or about such premises.

Section 1-12 PENALTY.

1. Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variance or special exceptions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100 or imprisoned for not more than 30 days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

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2. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.
3. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violations.

Section 1-13 POWER OF THE CITY COUNCIL TO AMEND ORDINANCE

1. The City Council may amend the number, shape, boundaries, or area of any district. It may amend any regulation or any other provision of the zoning ordinance.
2. The City Council may not make any amendment authorized by this section unless the amendment was proposed by the Planning Commission or is first submitted to the planning commission for its approval, disapproval, or recommendation.
3. The City Council, after a Planning Commission public hearing and a review of their recommendation may;
 - a. Adopt the zoning ordinance as proposed; or
 - b. Amend the zoning ordinance and adopt or reject the zoning ordinance as recommended by the Planning Commission; or
 - c. Reject the ordinance.
4. Any zoning amendments disapproved by the Planning Commission may be considered by the City Council upon a filing, in writing, by the applicant, of a Notice of Application with the City Recorder within 10 days after the final decision denying the zoning amendments is made by the Planning Commission. Such notice shall set forth in detail the action and grounds upon which the applicant is aggrieved by the decision of the Planning Commission. After receiving the notice, a date for a public hearing shall be set and notice given pursuant to the provisions of this Section.
5. Disapproval of a zoning amendment application shall preclude the filing of another application to rezone the same parcel of property, or any portion thereof to the same zone classification

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within one year of the date of the final disapproval of the application, unless the Planning Commission finds that there has been a substantial change in the circumstances or sufficient new evidence since the disapproval of the application to merit consideration of a second application within one-year time period. If the Applicant feels there has been substantial change in circumstances, or sufficient new evidence, a letter requesting reconsideration of the application must be submitted to the Planning Commission setting forth the basis for the request. No appeal may be taken from a Planning Commission decision rendered pursuant to this subsection.

Section 1-14 PETITION FOR CHANGE.

Any person desiring to initiate a change in this ordinance or the zoning map shall submit a petition to the administrator explaining the request and the reasons therefor. The petition shall be accompanied by an amendment petition fee in an amount determined by resolution of the legislative body.

Section 1-15 FILING FEE AND PUBLICATION CHARGE.

At the time the petition is filed requesting change with respect to zoning or building or uses of land as contemplated by this part, there shall be paid to the treasurer a filing fee of 25.00 dollar(s). Should a public hearing be required by law or otherwise upon the change so petitioned for, the party petitioning shall pay to the treasurer the sum of 75.00 dollar(s) for the purpose of defraying the cost of advertising such public hearing. The recorder shall notify such petitioner of such charge for advertising and shall not proceed with the advertising until such charge has been paid.

Section 1-16 REFERRAL OF PETITION TO PLANNING COMMISSION.

Such petition, together with any protests thereto, shall be referred to the planning commission for consideration and recommendation. The Planning Commission shall return such petition together with its recommendation to the City Council no later than thirty (30) days after referral to it.

Section 1-17 PUBLIC HEARING.

The City Council shall hold a public hearing on proposed zoning ordinance changes recommended to it by the planning commission. Reasonable notice of the public hearing shall be given at least ten (10) days before the date of the hearing. If notice of a proposed change is mailed to property owners within a specified distance within the city notices shall be mailed to adjacent property owners of other jurisdictions within the same distance.

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Section 1-18. TEMPORARY REGULATIONS.

1. The City Council may, without a public hearing, enact ordinances establishing temporary zoning regulations for any part or all of the areas within the City if the City Council makes a finding of compelling, countervailing public interest.
2. The temporary zoning regulation may prohibit, or regulate the erection, construction, reconstruction, or alteration of any building or structure or subdivision approval.
3. The City Council shall establish a period of limited effect for the ordinance not to exceed six months.

Section 1-19. ANNEXATION.

1. The City Council may assign a zoning designation to territory annexed to the City at the time the territory is annexed.
2. If the City Council does not assign a zone to territory at the time it is annexed, the territory annexed to the City shall be zone of the City with which is has the longest common boundary.
3. The process of annexation must be in accordance with the provisions of Chapter 15, Annexation Policy Plan.

Section 1-20 GENERAL PLAN.

The document entitled "Wellington City General Plan," as adopted on October 10, 2007 and subsequently amended, is hereby adopted as the General Plan for the City.

1. **Plan Preparation:** It shall be the duty of the Planning Commission to formulate, prepare and adopt a General Plan for the physical development and beautification of the City, pursuant to Utah Code Annotated. Before recommending to the City Council the General Plan, the commission shall hold public hearings on the plan within the City in conformance with Utah Code Annotated.
2. **Submission To City Council:** The commission, after completing the General Plan, shall submit said plan, with the accompanying maps, plats, charts and descriptive and explanatory matter, together with the detailed recommendations of the commission for the carrying out of the General Plan, to the City Council for its approval.

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3. Amendment of Plan: The City Council may amend the General Plan, including land use maps, by following the procedures required by Utah Code Annotated.

Section 1-21 EFFECT OF THE GENERAL PLAN.

1. Any structure, park or other public way, ground, place, or space, publicly owned building or structure, public utility, whether publicly or privately owned, shall:
 - a. Conform to the General Plan; and
 - b. Be considered by the Planning Commission and after receiving the advice of the Planning Commission, be approved by the City Council as an amendment to the General Plan.
 - c. Before accepting widening, removing, extending, relocating, narrowing, vacating, abandoning, changing the use, acquiring land for, or selling or leasing any street or other public way, ground, place, property, or structure, the City Council shall submit the proposal to the Planning Commission for its review and recommendations. If the City Council approved any of the items in this subsection, it shall also amend the General Plan to reflect the change.